

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 27, 1998

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Masterson, J., Dunn, J. (Assigned), and S. Beaux,
Deputy Clerk.

Each of the following:

B112566 Farell v. Rosen & Leavitt
B120677 Kathleen V. v. SCLA

Argument waived, cause submitted.

B108515 Exxess Exelectronixx et al.
 v.
 Heger Realty Corp. et al.

Merits:
Argued by Timothy P. Creyaufmiller for respondents and no appearance for
appellants. Cause submitted.

B106344 Lindsey
 v.
 Hettena

Merits:
Argued by Ronald Hettena, in propria persona, for respondent and no
appearance for appellant. Cause submitted.

DIVISION ONE (Continued)

B115943 Merlo
 v.
 Mendoza

Merits:
Argued by A. John Merlo, in propria persona, for appellant and no
appearance for respondent. Cause submitted.

B118217 Zurich-American Insurance Company
 v.
 WCAB
 (Quintero)

Merits:
Argued by Randal I. Klein for petitioner and by Thelma S. Cohen for
respondent. Cause submitted.

B112260 Rick
 v.
 Century 21 Mission et al.

Merits:
Argued by Natalie Blake for respondents and no appearance for appellant.
Cause submitted.

B112346 Sazio
 v.
 Alcoser et al.
 Estate of Marian C. Cummins, Deceased.

Merits:
Argued by George Kelly for appellant and by James W. Maddox for
respondents. Cause submitted.

DIVISION ONE (Continued)

B114285 Simon
v.
Simon

Merits:

Argued by James R. Eliaser for appellant and by Marc Gross for respondent. Cause submitted.

Justice Ortega leaves the bench.

B113007 Galanty
v.
The Paul Revere Life Insurance Company

Merits:

Argued by Mary Newcombe for appellant and by Gail E. Cohen for respondent. Cause submitted.

Court adjourned.

B096717 Bohan (Not for Publication)
v.
Wong

We reverse the judgment. We remand the case for the trial court to set a trial date. The parties are to bear their own costs on appeal.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

May 27, 1998-Continued

DIVISION ONE (Continued)

B121229 Strauss et al.
v.
RSP Laboratories Inc. et al.

Filed order granting motion to dismiss appeal. Appeal filed April 1, 1998, is dismissed.

DIVISION TWO

B116396 People (Not for Publication)
v.
DeGrasse

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

DIVISION THREE

[illegible]

The judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Goodman, J. (Assigned)

May 27, 1998-Continued

DIVISION THREE (Continued)

B111774 People (Not for Publication)

V.

Marcos Diaz Torres

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B101913 People (Not for Publication)

V.

Theodore John Maropoulos

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B111201 People (Not for Publication)

V.

Angel Miyen

The judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

DIVISION THREE (Continued)

B111372 People (Not for Publication)
v.
Frank Robert Jara

The judgment is affirmed.

Aldrich, J.

We concur: Kitching, Acting P.J.
Goodman, J. (Assigned)

[illegible]

The judgment is reversed with the following directions: if the People do not bring appellant to trial within 60 days after the filing of the remittitur in the trial court pursuant to Penal Code section 1382, subdivision 2, the trial court shall proceed as if the remittitur constituted a modification of the judgment to reflect a conviction of involuntary manslaughter (Pen. Code, § 192, subd. (b)), and shall resentence appellant accordingly.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B110882 People (Not for Publication)
v.
Alma R.

The order of wardship is affirmed.

Kitching, Acting P.J.

We concur: Aldrich, J.
Goodman, J. (Assigned)

DIVISION THREE (Continued)

B109220 People (Not for Publication)

v.
Victor Mosley

The judgment is affirmed.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

B109822 Howard Greenspan (Not for Publication)

v.
Canadian Imperial Bank of Commerce, et al.

The order staying the proceedings on grounds of forum non conveniens is affirmed. CIBC is awarded costs on appeal.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

B114192 Jennifer Nelson (Not for Publication)

v.
Superior Signal Service Corporation, et al.

The judgment is affirmed. Respondents are awarded costs on appeal.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (Continued)

B116129 Department of Children & Family Services (Not for Publication)
B118736 v.
Sheila S.
(In the Matter of Michael M., a minor, r.p.i.)

The judgment is affirmed. The petition for writ of coram vobis is denied.

Kitching, J.

We concur: Croskey, Acting P.J.
Aldrich, J.

B109818 Carmen Lawson (Not for Publication)
v.
The Candle Corporation,

The judgment is affirmed. Costs on appeal awarded to respondent Candle Corporation.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

B111254 Robert C. Rosen (Not for Publication)
v.
Lewis, D'Amato, Brisbois & Bisgaard, et al.

The judgment in favor of Lewis, D'Amato, Brisbois & Bisgaard on Rosen's complaint is affirmed. The judgment in favor of Rosen on the cross-complaint of Lewis, D'Amato, Brisbois & Bisgaard is reversed. Costs on appeal awarded to Lewis, D'Amato, Brisbois & Bisgaard.

Kitching, J.

We concur: Croskey, Acting P.J.
Aldrich, J.

DIVISION FOUR

B111638 Dillingham Construction (Certified for Publication)

v.
Nadel Partnership

The matter is remanded to the trial court. The trial court is directed to modify the judgment to reflect that Dillingham is to recover equitable comparative indemnity from Nadel in the sum of \$343,749.40. In all other respects, the judgment is affirmed. Nadel is to recover its costs on appeal.

Baron, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

B112536 Smith (Not for Publication)

v.
Smith

The order of the family court is reversed. Appellant is awarded her costs.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

B107940 People (Not for Publication)

v.
Mendez

The abstract of judgment is modified to reflect 1,273 days of presentence credit; as so modified, the judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

DIVISION FOUR (Continued)

B112470 People (Not for Publication)
v.
Meza

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B116204 People (Not for Publication)
v.
Carter

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B111597 People (Not for Publication)
v.
Vargas

The sentence is reversed and the matter remanded for further proceedings in conformance with the views expressed in this opinion. In all other respects, the judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

May 27, 1998-Continued

DIVISION FIVE

B111958 People (Not for Publication)

V.

Randy G.,

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.

Grignon, J.

B118538 John Eardley

V.

Ikea, et al.

The motion to vacate dismissal is deemed a rehearing petition and is denied.

B113297 Duane Hardin (Not for Publication)

V.

Ralene M. Anderson etc. et al.

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.

Armstrong, J.

B114209 People (Not for Publication)

V.

Richard Naham

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.

Godoy Perez, J.

DIVISION FIVE (Continued)

B118280 Muriel Goodwin (Not for Publication)
 v.
 Frederick Nicholas

The judgment is affirmed. Respondent to recover costs.

Turner, P.J.

We concur: Grignon, J.
 Godoy Perez, J.

B115839 People (Not for Publication)
 v.
 Kevin Winn

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

B117317 Union of Needletrades etc.
 v.
 Guess?, Inc.

Appeal number B119205 is order consolidated under appeal number
B117317.

DIVISION SIX

Court convened at 9:30 A.M.

Present: Stone, P.J., Gilbert, J., Yegan, J., and J. Terry, Deputy Clerk.

Each of the following:

B115402 San Luis Obispo Co. Dept. of Social Services v. Maria D.

B116828 San Luis Obispo Co. Dept. of Social Services v. Robert G.

Argument waived, cause submitted.

B112977 Golden Eagle Insurance Company
v.
Mutual Service Casualty

Merits:

Argued by James M. McFaul for appellant and by Gary R. Selvin for respondent. Cause submitted.

B110403 Hittner
v.
Reeder

Merits:

Argued by David J. Gallo for appellant and James C. BATTERY for respondent. Cause submitted.

Justice Coffee assume bench.

B112969 Michie
v.
Rummonds

Merits:

Argued by Douglas C. Michie, in propria persona,
and by James S. Rummonds for respondent. Cause submitted.

DIVISION SIX (Continued)

Justice Yegan leaves bench.

B109702 Nilsen
v.
Damron

Merits:

Argued by Craig A. Parton for appellant and by Lisa Ramsey for respondent. Cause submitted.

B110246 McCornack
v.
Sigerson

Merits:

Argued by Kathlene Bonnigsen for appellant, Anne C. Cyr for respondent Klever, and by David A. Juhnke for respondent McCornack. Cause submitted.

Court adjourned at 11:57 A.M.

DIVISION SEVEN

B107741 People (Not for Publication)
v.
Jackson

The judgment of conviction is affirmed. The sentence is vacated and the cause remanded for resentencing consistent with the view expressed in this opinion.

Johnson, J.

We concur: Lillie, P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B098825 Agee (Not for Publication)
v.
Darrah

The judgment is affirmed. Respondents to recover costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

B117653 California Insurance Guarantee Assn. (Certified for Publication)
v.
Superior Court, Los Angeles County
(Insurance Commissioner of the State of California, r.p.i.)

Let a peremptory writ of mandate issue directing the respondent superior court to (1) vacate its order of July 28, 1997, to the extent it authorizes real party in interest to offset petitioner's claim in the liquidation proceeding by the amount of its subrogation recovery and (2) issue new and different order authorizing real party to offset only the portion of the subrogation recovery, if any, which represents recovery of estate assets.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B110307 People (Not for Publication)
v.
Faletogo

The order granting a new trial is reversed. The judgment of conviction is affirmed.

Johnson, J.

We concur: Lillie, P.J.
 Neal, J.

DIVISION SEVEN (Continued)

[illegible]

The judgment is modified to provide that the one-year term for the prison term enhancement imposed under Penal Code section 667.5, subdivision (b), is "stricken." In all other respects, the judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

[illegible]

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.

[illegible]

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

May 27, 1998-Continued

DIVISION SEVEN (Continued)

[illegible]

The judgment is affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

B106255 Gill (Not for Publication)
v.
Southern Calif. Media Production Company

The judgment is affirmed. Respondent is awarded costs of appeal.

Woods, J.

We concur: Lillie, P.J.
Neal, J.